G. R. S. IX-5

Previous references.

File No. 55-24

1921.

Serial Nos. 1-3.

(Cto.)

Later references.

C15228-24 (1-2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Three.

Part B for October 1921

SUBJECT.

Amendment of the Court Fees Regulation

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812) To The Registrar, Chief Court
The D. C. Jagraon &c
The D. C. Shimoga &c
The D. Cs of other Dts
No. J. 1504-13 D. 28.9.21.

Directs that the concession viz reduction of Court Fees by half in the case of pauper suits and refund of excess stamps paid on plaint-appeal memoranda cannot be granted.

WD 1888—GPB—16,826—23-7-21

G. R. S. 11] 1924.

GENERAL AND REVENUE SECRETARIAT

(c/o.

NOTES.

File No. 59-24.

FILE HEADING.

Amendment of the Court Fees Regulation.

From

No. Dated Received

Diary No. Enclos. Spare Copies. Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

Oct 1920

SUBJECT No. 80.

Amendment of the Court Fees Regulation.

Messrs. (1) S. Krishnaswamy Rao, Linge Gowda and Channappa, Myscre Taluk; (2) C. Subba Rao and P. Venkappaiya, Shimoga District Board and G. M. Kadappa, Shimoga Municipality and (3) K. Subbaraya Chetty, Bowringpet Taluk.

1 *Mr. S. Krishnaswami Rao.*—The Court Fees Regulation may be amended so as to allow refund of half the Court fees in case of pauper suits. If the suit is admitted, the admission fee should be reduced by half.

2522 (2)
Courts 59-21

2 *Third Member of Council.*—The matter is under the consideration of the Chief Court.

3 *Mr. C. Subba Rao.*—If by mistake excess stamps are paid on plaint appeal memo, they are not refunded. Provision may be made for refund in such cases.

4 *Third Member of Council.*—The matter will be considered.

5 *Mr. Subbaraya Chetty.*—With regard to Court fees, some concession may be shown to plaintiffs in Charitable Endowment suits, just as they show in the case of pauper suits or probate suits, giving at the same time all the advantages of Court fee paid suits.

~~60~~

6 *Third Member of Council.*—If a representation is made to Government explaining the hardships, the matter will be considered.

5/6/6

7) Submitted with a draft to the Registrar Chief Court
As regards para 6, as no representation has been
received no action seems called for

8) May I know if the opinion
of the Chief Ct has not
been received (Mean examine
the Assessors' books)

D. M.
16/8.

9) Laid with draft as
10) the opinion of the Chief Court
has not been received. If approved
the draft will issue

19/8/21 (11)

Se no 1 To the Registrar Chief Court
No 9,894 Dt 22.8.1921
Calls for opinion of the Judges
of the Chief Court in the matter

G. R. S. III-21

1007 (3

General and Revenue Secretariat.

File No. 59 of 1921-22

Serial No.	
2	Forwd The Registrar Hon'ble Court Letter no 211 J dt 2.8.1924 Forwards the opinion of the Judges as called for Submitted for orders. The Judges are not in favour of granting the concession prayed for. 3rd Member) dcs 8/9/24 Hon'ble pleas mark accepted the number enjoined accordingly. Hdl 17/9 hm Drafts please. cal 20/9/24 Submitted with a draft For perusal before Issue. Crem Secy) cal 21-9-24 hm 22.9.24, cal 22.9.24 Issued
3	To The Registrar, each Court The D. C. Serampore Dt The D. C. Chinsura Dt. The D. Cs & other Districts No J 1904-13 dt 28-9-1921

1828
8/9/24

7/9/24 hm
7/9

G. R. S. III-2]

General and Revenue Secretariat.

File No. 59 of 1921

Serial No.

Direct that the concession viz reduction of court fees to half in the case of pauper suits and refund of excess stamps paid on plaint after memoranda cannot be granted

9/10/21

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, the *191* .

Date of issue 22/8/21

Signed by

Section 45

File No. 59-21

Serial No 1

No. 1674

To

The Registrar Lahore Court

Sir

I am directed to invite reference to subject no 80 discussed during the R-A. meeting in october 1920 (Amendment of court fees Regulation -) in the matter of the reduction of court fees by half in the case and refund of excess stamps paid in plaint appeal memo by mistake of pauper suits and to the reply of the Hon'ble Member of Council and to request you to intimate the decision of the Chief Court in regard to the fixation of judges salaries and to furnish the opinions of their Justices

Translate and forward to the Chief Court in regard to the Return.

over.

D. 1618

31/8/21

for Secretary

18511

Roc. No 211 [illegible]
21—n— [illegible]

1007

Chief Court of Mysore,
Bangalore, 2nd August 1921.

FILE 59-21

From

A. Srinivasa Raghavachar, Esq., B.A., B.L.,
Registrar of the Chief Court of Mysore,
Bangalore.

To

B. Ramaswamaiya, Esq., B.A., B.L.,
Secretary to the Government of His Highness
the Maharaja of Mysore,
Revenue Department, Bangalore.

Sir,

Adverting to your letter No.J.874/Cts. dated the 22nd August 1921 inviting reference to subject No.80 discussed during the Representative Assembly meeting in October 1920 (amendment of Court Fees Regulation) and requesting to intimate the decision arrived at by the Judges of the Chief Court in the matter of the reduction of Court Fees by half in the case of pauper suits and to forward their opinion in regard to the refund of excess Stamps paid on plaint appeal memo by mistake, I am directed to forward herewith the opinion of the Judges in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

REGISTRAR.

TMN/

Encl 52

OPINION OF THE JUDGES.

CHIEF JUDGE:--

" The cases XXVI, Mysore Chief Court Reports pages 155--156 before the Chief Court to which reference seems to be made in the reply to the representatives raised the --- question whether section 17 A of the Civil Courts Regulation is applicable to pauper suits; that question was decided in the affirmative in the Chief Court, but it does not seem that that decision meets the suggestions of the representatives. They seem to suggest that in all pauper suits the fee recoverable from the plaintiff should be half that recoverable in -- other cases---at present as the Government are aware no fee is paid at the outset in the case of a pauper suit, and the court decides on the close of the case (if the plaintiff succeeds) from whom the fee is to be recovered (Order 33, rule 10). There may possibly be cases in which it is hard on a pauper plaintiff who loses his suit, to be responsible for the fee which he -- could not pay at the outset and it might be less hard on him if he had to pay only half the fee, but it is not easy to see why the Government should suffer the loss when the plaintiff brings an unsuccessful suit. If the representation is accepted it will prima facie apply also to defendants i.e. the Court fee leviable from them will be only half what it would be in other suits and they may or may not be paupers. No doubt that is not necessarily so: the Government may if it chooses remit half the court fee leviable in a case to which Order 33 rule 10 applies, only when it is leviable from the plaintiff but that seems difficult to justify: the defendant may be just as poor as the plaintiff especially if he loses property concerned in the suit.

The

The whole question is really a matter for the consideration of Government. The revenue to be foregone is probably small, and it matters not to the courts whether they collect less or more, as their budgets are not based on their revenues, but on the expenditure. The revenues go to general revenue and the duty of the courts is simply to collect the Government's legal demands for court fees.

Personally I see no very good reason for any concession: if the plaintiff succeeds he has got what any other plaintiff would have got if the court fee had been paid at the date of institution. If he fails it is not easy to see why he should pay less than any one else who fails: there is no object in encouraging speculative pauper suits: and if the plaintiff is really a pauper the Government is likely to loose the whole and not only the half.

As to question (2) we have already stated that we have no objection if the Government like to remit and probably no amendment of the law is required.

Reverting to question (1) it will not be necessary to amend the Code or the Court Fees Regulation: a Notification under the Court Fees Regulation would seem sufficient to affect the remission of half the fees if the Government think it desirable".

MR. JUSTICE K. S. CHANDRASEKHARA AIYAR:--

" I quite agree "

MR. JUSTICE B. NAGAPPA :--

" I am of the same opinion and see no good ground to show any concession to an unsuccessful pauper. On the other hand he will be tempted to indulge in speculative --- suits without any risk of paying anything towards Court --- Fees.

Athenis Thopanchus
3/9
REGISTRAR.

TMN/

10 copies. 10

G.R.S. 28]

Ch File No. 57-24
Serial No. 3

Diary No. of letter replied to 1007

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 191 .

Date of issue 28/9/21

Signed by M. Clerk.

READ—

Subject no 80 discussed during the R.A. Session of October 1920 (1) in the matter of amending the Court Fees Regulation so as to allow refund of half the Court fees in case of pauper suits and that if the such ~~ORDER THEREON.—No.~~ is admitted, the admission fee should be reduced by half and also the refund of excess stamps if paid on plaint appeal memo.

2. Letter no 211 dy 2.8.1921 from the registrar Bobby Court forwarding the opinion of the judges in the matter.

over

SUBJECT.

GPB—50,000—1-12-12

order

1904 — 13.

Govt. ~~have considered the matter~~ and agree in the views of the judges of the Chief Court that no case has been made out for granting the concession asked for. ~~For~~ the reduction of the Court fee by half in the case of pauper suits, ~~as~~ The plaintiff will ~~not~~ if he succeeds get what any other plaintiff would have got if the court fee had been paid at the date of institution, and if he fails it is not easy to see why he should pay less than any one else who fails. Further the grant of the concession is likely to encourage speculative pauper suits. It may be added that ~~in case of~~ the plaintiff is really a pauper the Court fee can be recovered, ~~is really a pauper for Court is likely to lose~~ it is immaterial whether the first ~~the whole and at most the~~ half the fee.

2- They do not also view with favour the other concession ~~prayed for~~ asked for, viz the Refund of the fee stamps paid on plaint appeal memorandum.

Macleod

Shelbey

To
The Registrar Chief Court with a Dy Com. report Re. proposed amendment
Shimoga DO
Dy Com. report Re. proposed amendment